



**STATE OF NEW JERSEY**

***Board of Public Utilities***

*Two Gateway Center  
Newark, NJ 07102*

**TELECOMMUNICATIONS**

IN THE MATTER OF THE PETITION FOR )  
AN ORDER AUTHORIZING ENRON )  
BROADBAND SERVICES, INC. TO )  
PROVIDE LOCAL EXCHANGE AND )  
INTEREXCHANGE TELECOMMUNI- )  
CATIONS SERVICES THROUGHOUT )  
NEW JERSEY )

**ORDER OF APPROVAL**

DOCKET NO. TE00070503

(SERVICE LIST ATTACHED)

BY THE BOARD:

By letter dated July 17, 2000, Enron Broadband Services, Inc. (Petitioner or EBS) filed a petition with the Board of Public Utilities (Board) requesting authority to provide interexchange services throughout the State of New Jersey. In addition, EBS responded to a staff questionnaire by letter dated September 7, 2000. On September 11, 2000, EBS amended the original petition to include facilities-based and resold local exchange services. Finally, EBS responded to Staff interrogatories by a letter dated October 25, 2000.

According to the petition, Petitioner was incorporated under the laws of the State of Oregon in March 1996 as Portland General Communications Services, Inc. On November 15, 1996, the name was changed to First Point Communications Services, Inc. On March 23, 1998, the name was changed to Enron Communications. Finally, on January 29, 2000, the name was changed to Enron Broadband Services, Inc. EBS is a subsidiary of Enron Corporation. Petitioner's principal offices are located at 2100 S.W. River Parkway, Portland, Oregon 97201. Petition at 2 and 3.

Petitioner submitted copies of its Articles of Incorporation, an Oregon Certificate of Good Standing and its New Jersey Authority to Operate as a Foreign Corporation. Petition at 3, Exhibits A and B. According to the petition and its amendment, EBS was formed to provide local exchange and interexchange services. Petition at 1. September 11, 2000 letter at 1. Petitioner advised that EBS is currently certified to provide local exchange and interexchange telecommunications services in California, Louisiana and Oregon. EBS is also authorized to provide interexchange services only in Colorado, Texas and Wyoming. September 7, 2000 letter, Exhibit D. EBS has not been denied authority to provide telecommunications services in any state. In addition, EBS has no pending civil, criminal or administrative actions against it.

EBS advised that it has not yet negotiated an interconnection agreement with any local exchange carriers.

In its petition and amendment, Petitioner advised that it seeks authority to provide local exchange and interexchange telecommunications services to business customers throughout New Jersey. Petition at 1. September 7, 2000 letter at 4. EBS initially proposes to offer data and broadband services to internet service providers, digital content producers, financial institutions, IXC's and CLECs. September 7, 2000 letter at 4. EBS may use its own facilities, or unbundled network elements. Petition at 4.

Petitioner requested a waiver of N.J.S.A. 48:3-7.8, N.J.A.C. 14:1-1.2, 14:1-5.15 and 14:10-1.16(b), which require that its books and records be maintained in accordance with the Uniform System of Accounts (USOA) and within the State of New Jersey. Petitioner requested that, in the interest of efficiency and to prevent undue burden, its books and records will be maintained in accordance with Generally Accepted Accounting Principles (GAAP). Petition at 9. Petitioner also requests permission to keep all books, records, documents and other writings incident to the conduct of business of Petitioner in the State of New Jersey at Petitioner's corporate offices in Portland, Oregon. Petition at 8. Petitioner also stated that, upon written notice from the Board, it will produce its books and records at such time and place within New Jersey as the Board may designate and will pay any reasonable expenses for examination of the records. Petitioner asserted that approval of its petition will further the public interest by expanding the availability of competitive telecommunications services in the State of New Jersey. Petition at 7. Petitioner also asserted that approval of this Petition will provide New Jersey customers with access to new technologies and service choices and will permit customers to achieve increased efficiencies and cost savings. In addition, Petitioner stated that approval of its petition will enhance the telecommunications infrastructure in the State of New Jersey and will facilitate economic development. Petition at 7.

With regard to its managerial qualifications, EBS stated that it possesses the technical capability and managerial qualifications to operate and manage its telecommunications operations in the State of New Jersey. Petition at 1. Petitioner submitted the professional biographies of its key personnel who, according to EBS, are well qualified to execute its business plans, and have extensive managerial and technical experience in the telecommunications industry. Petition at 1, 6, Exhibit C.

Petitioner has submitted the form 10K of its parent, Enron Corporation, for 1999 as evidence of sufficient financing. Petitioner will need to file pro forma balance sheets and income statements for its New Jersey operations before receiving approval of its tariff.

## DISCUSSION

On February 8, 1996, the federal Telecommunications Act of 1996, P.L. 104-104, 110 Stat. 56, codified in scattered sections of 47 U.S.C. §151 et seq., was signed into law, removing barriers to competition by providing that:

[n]o State or local statute or regulation, or other State or local legal requirement, may prohibit or have the effect of prohibiting the ability of any entity to provide any interstate or intrastate telecommunications service.

[47 U.S.C. §253(a)].

Therefore, Board approval of Petitioner's entry into the telecommunications marketplace is required, assuming Petitioner meets all other requirements, including, but not limited to, a demonstration of financial, technical and managerial integrity.

In considering this application, the Board recognizes its obligation not to prohibit entry into intrastate telecommunications markets. 47 U.S.C. §253(a). Approval is also in keeping with the New Jersey State Legislature's decision that it is the policy of the State to provide diversity in the supply of telecommunications services, and its findings that competition will "promote efficiency, reduce regulatory delay and foster productivity and innovation" and "produce a wider selection of services at competitive market-based prices." N.J.S.A. 48:2-21.16(a)(4); N.J.S.A. 48:2-21.16(b)(1) and (3).

Therefore, having reviewed EBS's petition and the information supplied in support thereof, the Board FINDS that Petitioner has demonstrated that it possesses the requisite financial, technical and managerial resources which are necessary to provide telecommunications services in New Jersey. Accordingly, the Board HEREBY AUTHORIZES Petitioner to provide local exchange and interexchange telecommunications services in New Jersey subject to approval of its tariff and submission of its own pro forma financial statements. The Board notes that Petitioner will not be able to provide telecommunications services until a tariff is approved by the Board and the required financial statements have been provided. Regarding the Petitioner's request for waivers of Board rules, the Board FINDS that the Petitioner has demonstrated good cause why the Board should grant relief from its requirements to maintain its books and records under the USOA and within New Jersey. Therefore, subject to the Petitioner's continuing responsibility to reimburse the Board for any reasonable expenses or charges incurred by the Board for any investigation or examination of these books and records, the Board APPROVES Petitioner's request for the exemptions from maintaining its books and records in New Jersey and under the USOA.

DATED: 12/21/00

BOARD OF PUBLIC UTILITIES  
BY:

(signed)  
HERBERT H. TATE  
PRESIDENT

(signed)  
FREDERICK F. BUTLER  
COMMISSIONER

ATTEST:

(signed)  
FRANCES L. SMITH  
BOARD SECRETARY